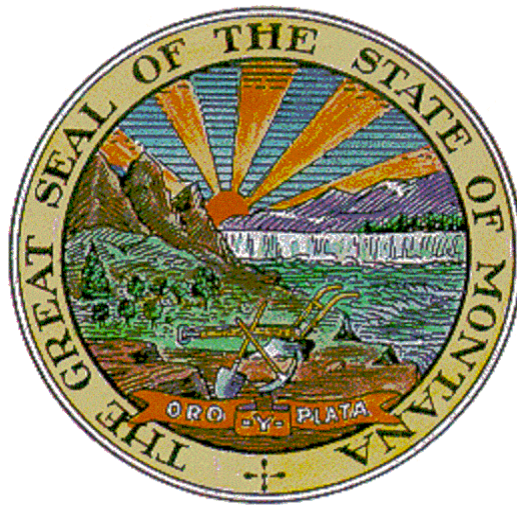


State of Montana
Department of Labor and Industry
Business Standards Division

DEPARTMENT & PROGRAM SPECIFIC STATUTES RELATING
TO THE PRACTICE OF ATHLETIC AGENTS



ISSUED BY:

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**TITLE 2
CHAPTER 15
PART 17**

2-15-1701. Department of labor and industry -- head. (1) There is a department of labor and industry. As prescribed in Article XII, section 2, of the Montana constitution, the department head is the commissioner of labor and industry.

(2) The commissioner shall be appointed and serve as provided for directors in [2-15-111](#).

(3) The commissioner shall receive an annual salary in such amount as may be specified by the legislature in the appropriation to the department of labor and industry.

(4) Before entering on the duties of his office, he must take and subscribe to the oath of office prescribed by the Montana constitution.

History: (1)En. 82A-1001 by Sec. 1, Ch. 272, L. 1971; Sec. 82A-1001, R.C.M. 1947; (2) thru (4)Ap. p. Sec. 2, Ch. 177, L. 1951; Sec. 41-1602, R.C.M. 1947; Ap. p. Sec. 3, Ch. 177, L. 1951; amd. Sec. 1, Ch. 27, L. 1957; amd. Sec. 2, Ch. 225, L. 1963; amd. Sec. 20, Ch. 177, L. 1965; amd. Sec. 2, Ch. 237, L. 1967; amd. Sec. 19, Ch. 100, L. 1973; amd. Sec. 6, Ch. 343, L. 1977; Sec. 41-1603, R.C.M. 1947; R.C.M. 1947, 41-1602, 41-1603, 82A-1001(part); amd. Sec. 20, Ch. 184, L. 1979; amd. Sec. 1, Ch. 116, L. 1981.

**TITLE 37
CHAPTER 1
PART 2 & 4**

Part 2 -- Licensure of Criminal Offenders

37-1-201. Purpose.

37-1-202. Intent and policy.

37-1-203. Conviction not a sole basis for denial.

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Programs Without Boards**

37-1-401. Uniform regulation for licensing programs without boards -- definitions.

37-1-402. Unprofessional conduct -- complaint -- investigation -- immunity.

- 37-1-403. Notice -- request for hearing.
- 37-1-404. Hearing -- adjudicative procedures.
- 37-1-405. Findings of fact -- order -- report.
- 37-1-406. Sanctions -- stay -- costs -- stipulations.
- 37-1-407. Appeal.
- 37-1-408. Reinstatement.
- 37-1-409. Enforcement of fine.
- 37-1-410. Unprofessional conduct.
- 37-1-411. Practice without license -- investigation of complaint -- injunction -- penalties.
- 37-1-412. Violation of injunction -- penalty.
- 37-1-413. Department authority.

Part 2

Licensure of Criminal Offenders

Part Cross-References

- Criminal justice policy -- rights of convicted, Art. II, sec. 28, Mont. Const.
- Gambling -- qualifications for licensure, 23-5-176.
- Building and loan agent's license revocable for violation of criminal statutes, 32-2-409.
- No outfitter's license issued to criminal offender, 37-47-302.
- Effect of conviction, 46-18-801.
- Supervision of probationers and parolees, Title 46, ch. 23, part 10.

37-1-201. Purpose. It is the public policy of the legislature of the state of Montana to encourage and contribute to the rehabilitation of criminal offenders and to assist them in the assumption of the responsibilities of citizenship. The legislature finds that the public is best protected when such offenders are given the opportunity to secure employment or to engage in a meaningful occupation, while licensure must be conferred with prudence to protect the interests of the public.

History: En. 66-4001 by Sec. 1, Ch. 490, L. 1975; R.C.M. 1947, 66-4001.

37-1-202. Intent and policy. It is the intent of the legislature and the declared policy of the state that occupational licensure be granted or revoked as a police power of the state in its protection of the public health, safety, and welfare.

History: En. 66-4002 by Sec. 2, Ch. 490, L. 1975; R.C.M. 1947, 66-4002.

37-1-203. Conviction not a sole basis for denial. Criminal convictions shall not operate as an automatic bar to being licensed to enter any occupation in the state of

Montana. No licensing authority shall refuse to license a person solely on the basis of a previous criminal conviction; provided, however, where a license applicant has been convicted of a criminal offense and such criminal offense relates to the public health, welfare, and safety as it applies to the occupation for which the license is sought, the licensing agency may, after investigation, find that the applicant so convicted has not been sufficiently rehabilitated as to warrant the public trust and deny the issuance of a license.

History: En. 66-4003 by Sec. 3, Ch. 490, L. 1975; R.C.M. 1947, 66-4003.

37-1-204. Statement of reasons for denial. When a licensing agency prohibits an applicant from being licensed wholly or partially on the basis of a criminal conviction, the agency shall state explicitly in writing the reasons for the decision.

History: En. 66-4004 by Sec. 4, Ch. 490, L. 1975; R.C.M. 1947, 66-4004.

Cross-References

Findings of fact required, 2-4-623.

Application of contested case procedure to licensing, 2-4-631.

37-1-205. Licensure on completion of supervision. Completion of probation or parole supervision without any subsequent criminal conviction shall be evidence of rehabilitation; provided, however, that the facts surrounding the situation that led to the probation or parole supervision may be considered as they relate to the occupation for which a license is sought and provided that nothing herein shall be construed to prohibit licensure of a person while he is under state supervision if the licensing agency finds insufficient evidence to preclude such licensure.

History: En. 66-4005 by Sec. 5, Ch. 490, L. 1975; R.C.M. 1947, 66-4005.

Part 4

Uniform Regulations for Licensing Programs Without Boards

37-1-401. Uniform regulation for licensing programs without boards -- definitions. As used in this part, the following definitions apply:

(1) "Complaint" means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(2) "Department" means the department of labor and industry provided for in 2-15-1701.

(3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the department;

- (c) whether a license should be granted, denied, or conditionally issued; or
- (d) whether the department should seek an injunction.

(4) "License" means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:

- (a) Title 37, chapter 35, 72, or 76; or
- (b) Title 50, chapter 39, 74, or 76.

(5) "Profession" or "occupation" means a profession or occupation regulated by the department under the provisions of:

- (a) Title 37, chapter 35, 72, or 76; or
- (b) Title 50, chapter 39, 74, or 76.

History: En. Sec. 1, Ch. 481, L. 1997; amd. Sec. 111, Ch. 483, L. 2001; amd. Sec. 21, Ch. 410, L. 2003.

37-1-402. Unprofessional conduct -- complaint -- investigation -- immunity.

(1) A person, government, or private entity may submit a written complaint to the department charging a licensee or license applicant with a violation of this part and specifying the grounds for the complaint.

(2) If the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have violated a requirement of this part, the department may investigate to determine whether there is reasonable cause to believe that the licensee or license applicant has committed the violation.

(3) A person or private entity, but not a government entity, filing a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint.

History: En. Sec. 2, Ch. 481, L. 1997.

37-1-403. Notice -- request for hearing. (1) If the department determines that reasonable cause exists supporting the allegation made in a complaint, the department legal staff shall prepare a notice and serve the alleged violator. The notice may be served by certified mail to the current address on file with the department or by other means authorized by the Montana Rules of Civil Procedure.

(2) A licensee or license applicant shall give the department the licensee's or applicant's current address and any change of address within 30 days of the change.

(3) The notice must state that the licensee or license applicant may request a hearing to contest the charge or charges. A request for a hearing must be in writing and must be received in the offices of the department within 20 days after the licensee's receipt of the notice. Failure to request a hearing constitutes a default on the charge or charges, and the department may enter a decision on the basis of the facts available to it.

History: En. Sec. 3, Ch. 481, L. 1997.

37-1-404. Hearing -- adjudicative procedures. The procedures in Title 2, chapter 4, governing adjudicative proceedings before agencies, the Montana Rules of

Civil Procedure, and the Montana Rules of Evidence govern a hearing under this part. The department has all the powers and duties granted by Title 2, chapter 4.

History: En. Sec. 4, Ch. 481, L. 1997.

37-1-405. Findings of fact -- order -- report. (1) If the department finds by a preponderance of the evidence, following a hearing or on default, that a violation of this part has occurred, the department shall prepare and serve findings of fact, conclusions of law, and an order as provided in Title 2, chapter 4. If the licensee or license applicant is found not to have violated this part, the department shall prepare and serve an order of dismissal of the charges.

(2) The department may report the issuance of a notice and final order to:

(a) the person or entity who brought to the department's attention information that resulted in the initiation of the proceeding;

(b) appropriate public and private organizations that serve the profession or occupation; and

(c) the public.

History: En. Sec. 5, Ch. 481, L. 1997.

37-1-406. Sanctions -- stay -- costs -- stipulations. (1) Upon a decision that a licensee or license applicant has violated this part or is unable to practice with reasonable skill and safety due to a physical or mental condition or upon stipulation of the parties as provided in subsection (4), the department may issue an order providing for one or any combination of the following sanctions:

(a) revocation of the license;

(b) suspension of the license for a fixed or indefinite term;

(c) restriction or limitation of the practice;

(d) satisfactory completion of a specific program of remedial education or treatment;

(e) monitoring of the practice by a supervisor approved by the disciplining authority;

(f) censure or reprimand, either public or private;

(g) compliance with conditions of probation for a designated period of time;

(h) payment of a fine not to exceed \$1,000 for each violation;

(i) denial of a license application;

(j) refund of costs and fees billed to and collected from a consumer.

(2) Any fine collected by the department as a result of disciplinary actions must be deposited in the state general fund.

(3) A sanction may be totally or partly stayed by the department. To determine which sanctions are appropriate, the department shall first consider the sanctions that are necessary to protect or compensate the public. Only after the determination has been made may the department consider and include in the order any requirements designed to rehabilitate the licensee or license applicant.

(4) The licensee or license applicant may enter into a stipulated agreement resolving potential or pending charges that includes one or more of the sanctions in this section. The stipulation is an informal disposition for the purposes of 2-4-603.

(5) A licensee shall surrender a suspended or revoked license to the department within 24 hours after receiving notification of the suspension or revocation by mailing the license or delivering it personally to the department.

History: En. Sec. 6, Ch. 481, L. 1997.

37-1-407. Appeal. A person who is disciplined or denied a license may appeal the decision to the district court as provided in Title 2, chapter 4.

History: En. Sec. 7, Ch. 481, L. 1997.

37-1-408. Reinstatement. A licensee whose license has been suspended or revoked under this part may petition the department for reinstatement after an interval set by the department in the order. The department may hold a hearing on the petition and may deny the petition or order reinstatement and impose terms and conditions as provided in 37-1-312. The department may require the successful completion of an examination as a condition of reinstatement and may treat a licensee whose license has been revoked or suspended as a new applicant for purposes of establishing the requisite qualifications of licensure.

History: En. Sec. 8, Ch. 481, L. 1997.

37-1-409. Enforcement of fine. (1) If payment of a fine is included in an order and timely payment is not made as directed in the order, the department may enforce the order for payment in the district court of the first judicial district.

(2) In a proceeding for enforcement of an order of payment of a fine, the order is conclusive proof of the validity of the order of payment and the terms of payment.

History: En. Sec. 9, Ch. 481, L. 1997.

37-1-410. Unprofessional conduct. The following is unprofessional conduct for a licensee or license applicant governed by this chapter:

(1) being convicted, including a conviction following a plea of nolo contendere and regardless of a pending appeal, of a crime relating to or committed during the course of practicing the person's profession or occupation or involving violence, the use or sale of drugs, fraud, deceit, or theft;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) making a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or

official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) the denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal or under judicial review or has been satisfied.

(8) failure to comply with a term, condition, or limitation of a license by final order of the department;

(9) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(10) misappropriating property or funds from a client or workplace or failing to comply with the department's rule regarding the accounting and distribution of a client's property or funds;

(11) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, failure to respond to department inquiries regarding a complaint against the licensee or license applicant, or the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action or use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(12) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice the profession or occupation by use of the licensee's license.

History: En. Sec. 10, Ch. 481, L. 1997.

37-1-411. Practice without license -- investigation of complaint -- injunction -- penalties. (1) The department may investigate a complaint or other information received concerning practice by an unlicensed person of a profession or occupation governed by this part.

(2) The department may file an action to enjoin a person from practicing, without a license, a profession or occupation governed by this part.

History: En. Sec. 11, Ch. 481, L. 1997; amd. Sec. 5, Ch. 230, L. 1999.

37-1-412. Violation of injunction -- penalty. (1) A person who has been enjoined and who violates an injunction issued pursuant to a proceeding under this part may be held in contempt of court and shall pay a civil penalty, as determined by the court, of not more than \$5,000. Fifty percent of the penalty must be deposited in the general fund of the county in which the injunction is issued, and 50% must be deposited in the state general fund.

(2) A person subject to an injunction for practicing without a license may also be subject to criminal prosecution. In a complaint for an injunction or in an affidavit, information, or indictment alleging that a person has engaged in unlicensed practice, it is sufficient to charge that the person engaged in the unlicensed practice of a licensed

profession or occupation on a certain day in a certain county without averring further or more particular facts concerning the violation.

(3) Unless otherwise provided by statute, a person practicing a licensed profession or occupation in this state without complying with the licensing provisions of this title is guilty of a misdemeanor punishable by a fine of not less than \$250 or more than \$1,000, imprisonment in the county jail for not less than 90 days or more than 1 year, or both. Each violation of the provisions of this chapter constitutes a separate offense.

History: En. Sec. 12, Ch. 481, L. 1997; amd. Sec. 6, Ch. 230, L. 1999.

37-1-413. Department authority. For each licensing program regulated by the department under this part, the department is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding licensees and license applicants and regarding possible unlicensed practice.

History: En. Sec. 4, Ch. 230, L. 1999.

TITLE 37 CHAPTER 76 PART 1

Part 1 -- General Provisions

- 37-76-101. Short title.
- 37-76-102. Definitions.
- 37-76-103. Service of process -- subpoenas.
- 37-76-104. Athlete agents -- registration required -- void contracts.
- 37-76-105. Registration as athlete agent -- form -- requirements.
- 37-76-106. Certificate of registration -- issuance or denial -- renewal.
- 37-76-107. Suspension, revocation, or refusal to renew registration.
- 37-76-108. Temporary registration.
- 37-76-109. Registration and renewal fees.
- 37-76-110 through 37-76-112 reserved.
- 37-76-113. Required form of contract.
- 37-76-114. Notice to educational institution.
- 37-76-115. Student-athlete's right to cancel.
- 37-76-116. Required records.
- 37-76-117. Prohibited conduct.
- 37-76-118. Criminal penalties.
- 37-76-119. Civil remedies.
- 37-76-120. Administrative penalty.

- 37-76-121. Uniformity of application and construction.
- 37-76-122. Electronic signatures.
- 37-76-123. Rulemaking authority.

Part 1

General Provisions

37-76-101. Short title. This chapter may be cited as the "Uniform Athlete Agents Act".

History: En. Sec. 1, Ch. 410, L. 2003.

37-76-102. Definitions. For the purposes of this chapter, the following definitions apply:

(1) "Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit a professional sports services contract or an endorsement contract on behalf of the student-athlete.

(2) (a) "Athlete agent" means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent.

(b) The term does not include a spouse, parent, sibling, grandparent, or legal guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.

(3) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

(4) "Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete to recruit or solicit the student-athlete to enter into an agency contract.

(5) "Department" means the department of labor and industry provided for in 2-15-1701.

(6) "Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration from another party based on the value to the other party that the student-athlete may have because of publicity, reputation, following, or fame obtained because of the student-athlete's athletic ability or performance.

(7) "Intercollegiate sport" means a sport played at the collegiate level with eligibility requirements for participation by a student-athlete established by a national association for the promotion or regulation of collegiate athletics.

(8) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental entity, or any other legal or commercial entity.

(9) "Professional sports services contract" means an agreement under which an individual is employed as or agrees to render services as a player on a professional sports team, as a member of a professional sports organization, or as a professional athlete.

(10) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(11) "Registration" means registration as an athlete agent pursuant to this chapter.

(12) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(13) "Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

History: En. Sec. 2, Ch. 410, L. 2003.

37-76-103. Service of process -- subpoenas. (1) By acting as an athlete agent in this state, a nonresident individual appoints the secretary of state as the individual's agent for service of process in any civil action in this state related to the individual's actions as an athlete agent in this state.

(2) The department may issue subpoenas for any material that is relevant to the administration of this chapter.

History: En. Sec. 3, Ch. 410, L. 2003.

37-76-104. Athlete agents -- registration required -- void contracts. (1) Except as provided in subsection (2), an individual may not act as an athlete agent in this state without holding a certificate of registration issued under 37-76-106 or 37-76-108.

(2) Before being issued a certificate of registration, an individual may act as an athlete agent in this state for all purposes except signing an agency contract if:

(a) a student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and

(b) within 7 days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

(3) An agency contract resulting from conduct in violation of this section is void and the athlete agent shall return any consideration received under the contract.

History: En. Sec. 4, Ch. 410, L. 2003.

37-76-105. Registration as athlete agent -- form -- requirements. (1) An applicant shall submit an application for registration to the department in a form prescribed by the department. The application must be in the name of an individual and,

except as provided in subsection (2), signed or otherwise authenticated by the applicant under penalty of perjury. The application must contain:

(a) the name of the applicant and the address of the applicant's principal place of business;

(b) the name of the applicant's business or employer, if applicable;

(c) any business or occupation engaged in by the applicant for the 5 years preceding the date of submission of the application;

(d) a description of the applicant's:

(i) formal training as an athlete agent;

(ii) practical experience as an athlete agent; and

(iii) educational background relating to the applicant's activities as an athlete agent;

(e) the names and addresses of three individuals not related to the applicant who are willing to serve as references;

(f) the name, sport, and last-known team for each individual for whom the applicant acted as an athlete agent during the 5 years preceding the date of submission of the application;

(g) if the applicant's business is other than a corporation, the names and addresses of all persons who are partners, members, officers, managers, or associates or who share profits of the business;

(h) if the applicant's business is a corporation, the names of any officers, directors, and any shareholder of the corporation having an interest of 5% or greater;

(i) whether the applicant or any person named pursuant to subsections (1)(g) and (1)(h) has been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony and must identify the crime;

(j) whether there has been any administrative or judicial determination that the applicant or any person named pursuant to subsections (1)(g) and (1)(h) has made a false, misleading, deceptive, or fraudulent representation;

(k) any instance in which the conduct of the applicant or any person named pursuant to subsections (1)(g) and (1)(h) resulted in the imposition of a sanction, suspension, or declaration of ineligibility for a student-athlete or educational institution to participate in an interscholastic or intercollegiate athletic event;

(l) any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to subsections (1)(g) and (1)(h) arising out of occupational or professional conduct; and

(m) whether there has been any denial of an application for, suspension or revocation of, or refusal to renew the registration or licensure of the applicant or any person named pursuant to subsections (1)(g) and (1)(h) as an athlete agent in any state.

(2) An individual who has submitted an application for and holds a certificate of registration or licensure as an athlete agent in another state may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed by subsection (1). The department shall accept the application and the certificate from the other state as an application for registration in this state if the application to the other state:

(a) was submitted in the other state within 6 months preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;

(b) contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and

(c) was signed by the applicant under penalty of perjury.

History: En. Sec. 5, Ch. 410, L. 2003.

37-76-106. Certificate of registration -- issuance or denial -- renewal. (1)

Except as provided in subsection (2), the department shall issue a certificate of registration to an individual who complies with 37-76-105(1) or whose application has been accepted under 37-76-105(2).

(2) The department may refuse to issue a certificate of registration if the department determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the department may consider whether the applicant has:

(a) been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony;

(b) made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

(c) engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(d) engaged in conduct prohibited by 37-76-117;

(e) had a registration or license as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure as an athlete agent in any state;

(f) engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution; or

(g) engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(3) In making a determination under subsection (2), the department shall consider:

(a) how recently the conduct occurred;

(b) the nature of the conduct and the context in which it occurred; and

(c) any other relevant conduct of the applicant.

(4) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the department. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.

(5) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (4), may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The department shall

accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:

(a) was submitted in the other state within 6 months preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;

(b) contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and

(c) was signed by the applicant under penalty of perjury.

(6) A certificate of registration or a renewal of a registration is valid for 2 years.

History: En. Sec. 6, Ch. 410, L. 2003.

37-76-107. Suspension, revocation, or refusal to renew registration. (1) The department may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under 37-76-106(2).

(2) The department may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing.

History: En. Sec. 7, Ch. 410, L. 2003.

37-76-108. Temporary registration. The department may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

History: En. Sec. 8, Ch. 410, L. 2003.

37-76-109. Registration and renewal fees. (1) An application for registration or renewal of registration must be accompanied by a fee.

(2) All fees and money received by the department must be deposited in the state special revenue fund in an account for use by the department in performing the duties required by this chapter.

History: En. Sec. 9, Ch. 410, L. 2003; amd. Sec. 123, Ch. 467, L. 2005.

37-76-110 through 37-76-112 reserved.

37-76-113. Required form of contract. (1) An agency contract must be in a record and signed or otherwise authenticated by the parties.

(2) An agency contract must contain:

(a) the amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;

(b) the name of any person not listed in the athlete agent's application for registration or renewal of registration who will be compensated because the student-athlete signed the agency contract;

(c) a description of any expenses that the student-athlete agrees to reimburse;

(d) a description of the services to be provided to the student-athlete;

(e) the duration of the contract; and

(f) the date of execution.

(3) An agency contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

**"WARNING TO STUDENT-ATHLETE
IF YOU SIGN THIS CONTRACT:**

(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT SHALL NOTIFY YOUR ATHLETIC DIRECTOR; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY."

(4) An agency contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

(5) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.

History: En. Sec. 10, Ch. 410, L. 2003.

37-76-114. Notice to educational institution. (1) Within 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or at which the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(2) Within 72 hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that the student-athlete has entered into an agency contract.

History: En. Sec. 11, Ch. 410, L. 2003.

37-76-115. Student-athlete's right to cancel. (1) A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within 14 days after the contract is signed.

(2) A student-athlete may not waive the right to cancel an agency contract.

(3) If a student-athlete cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

History: En. Sec. 12, Ch. 410, L. 2003.

37-76-116. Required records. (1) An athlete agent shall retain the following records for a period of 5 years:

- (a) the name and address of each individual represented by the athlete agent;
- (b) any agency contract entered into by the athlete agent; and
- (c) any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.

(2) Records required to be retained by subsection (1) must be open to inspection by the department during normal business hours.

History: En. Sec. 13, Ch. 410, L. 2003.

37-76-117. Prohibited conduct. (1) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:

(a) give any materially false or misleading information or make a materially false promise or representation;

(b) furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or

(c) furnish anything of value to any individual other than the student-athlete or another registered athlete agent.

(2) An athlete agent may not intentionally:

(a) initiate contact with a student-athlete unless registered under this chapter;

(b) refuse or fail to retain or permit inspection of the records required to be retained by 37-76-116;

(c) fail to register when required by 37-76-104;

(d) provide materially false or misleading information in an application for registration or renewal of registration;

(e) predate or postdate an agency contract; or

(f) fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

History: En. Sec. 14, Ch. 410, L. 2003.

37-76-118. Criminal penalties. An athlete agent who violates the provisions of 37-76-117 is guilty of a misdemeanor and may be imprisoned for a period not to exceed 1 year and may be fined up to \$5,000, or both.

History: En. Sec. 15, Ch. 410, L. 2003.

37-76-119. Civil remedies. (1) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of this chapter. In an action under this section, the court may award to the prevailing party costs and reasonable attorney fees.

(2) Damages of an educational institution under subsection (1) include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of this chapter or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by

reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by a national organization or athletic conference.

(3) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence should have discovered the violation by the athlete agent or former student-athlete.

(4) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.

(5) This chapter is not intended to restrict any other rights, remedies, or defenses that a person may otherwise have under law or equity.

History: En. Sec. 16, Ch. 410, L. 2003.

37-76-120. Administrative penalty. The department may assess a civil penalty against an athlete agent not to exceed \$25,000 for a violation of this chapter.

History: En. Sec. 17, Ch. 410, L. 2003.

37-76-121. Uniformity of application and construction. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of this chapter among the states adopting provisions similar to Montana's Uniform Athlete Agents Act.

History: En. Sec. 18, Ch. 410, L. 2003.

37-76-122. Electronic signatures. The provisions of this chapter governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of electronic records or signatures conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, Public Law 106-229, 114 Stat. 464.

History: En. Sec. 19, Ch. 410, L. 2003.

37-76-123. Rulemaking authority. The department may establish rules to administer and enforce this chapter.

History: En. Sec. 20, Ch. 410, L. 2003.